

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

MOUNTAIN EXPRESS OIL COMPANY, et al.,  
  
Debtors.<sup>1</sup>

Chapter 11

Case No. 23-90147 (DRJ)

(Jointly Administered)

**MONTO FOOD MART INC., BROADWAY FUEL, INC., PRIME PETRO, INC.,  
AMERICAN 1 GAS INC., COMMACK FUEL INC., AND RIVERDALE FUEL, INC.'S  
EMERGENCY MOTION TO RESET HEARING ON MOTION TO LIFT AUTOMATIC  
STAY  
(No. 1238)**

**If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested. Relief is requested no later than August 16, 2023.**

**A hearing will be conducted on this matter on a date and time to be determined by the Court. You may participate at this hearing either in person or by an audio and video connection, unless otherwise ordered by this Court. *See* Docket No. 119.**

**Audio communication will be by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Jones's conference room number is 205691. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Jones homepage. The meeting code is "JudgeJones". Click the settings icon in the upper right corner and enter your name under the personal information setting.**

**Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Jones' homepage. Select the case name, complete the required fields and click "Submit" to complete your appearance.**

<sup>1</sup> A complete list of each of the Debtors in these Chapter 11 Cases may be obtained on the website of the Debtors' proposed claims and noticing agent at [www.kccllc.net/mountainexpressoil](http://www.kccllc.net/mountainexpressoil). The location of Debtor Mountain Express Oil Company's principal place of business and the Debtors' service address in these Chapter 11 cases is 3650 Mansell Road, Suite 250, Alpharetta, GA 30022.

**To the Honorable David R. Jones:**

Monto Food Mart Inc., Broadway Fuel, Inc., Prime Petro, Inc., American 1 Gas Inc., Commack fuel Inc., and Riverdale Fuel, Inc. (collectively, the “Operators”) file their Emergency Motion to Reset Hearing on Motion for Relief from Stay (this “Motion”):

**Summary of Requested Relief**

1. Given the Debtors’ inability to mediate their exit strategy and need to prevent further irreparable harm to the Operators, the Operators request that the Court reset the hearing on the Operator’s Emergency Motion to Lift the Automatic Stay [Docket No. 1238] from August 18, 2023 to the earliest setting that the Court is available.

**I. Jurisdiction and Venue**

2. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

**II. Background**

4. On March 18, 2023 (the “Petition Date”), Mountain Express Oil Company and its affiliates (the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”) which are jointly administered. The Debtors are continuing to operate and manage their properties as debtors in possession.

5. The Operators are small family run businesses that operate gas stations and convenience stores leased from the Debtors and are counterparties to certain fuel supply agreements (the “Fuel Supply Agreements”) in Yonkers area of New York. As provided in the Fuel Supply Agreements, the Operators can only purchase fuel exclusively from the Debtors.

Since the Petition Date, the Debtors have been unable to provide a continuous supply of fuel to the Operators.

6. The Operators filed their *Emergency Motion to Lift the Automatic Stay* (the “Lift Stay Motion”) [Docket No. 1238] seeking approval from the Court to disconnect the Debtors’ credit card processing machines and black boxes to facilitate the purchase of fuel from non-debtor entities. The Lift Stay Motion was originally set for August 15, 2023.

7. On August 8, 2023, the Court entered an order appointing Judge Marvin Isgur as mediator to mediate the issues raised on the record at the hearing held on August 7, 2023. The Debtors, the Official Unsecured Secured Creditors Committee, the Debtors’ DIP Agent, BFM Enterprises, LLC, and other interested parties participated in the mediation (the “Parties”). On August 14, 2023, Parties appeared before the Court and announced the intent to continue their efforts at mediation. The same day, counsel for the Debtors contacted the undersigned counsel requesting a continuance given the potential resolution of issues at mediation; the Operators agreed to continue the hearing on the Lift Stay Motion to August 18, 2023 in hopes of reaching a resolution with the Debtors.

8. On August 15, 2023, Judge Isgur filed his *Statement by Mediator Terminating Mediation* [Docket No. 1268] which provided that the Parties were at an impasse. Given the posture of the Debtors’ case and the Operators desperate need for fuel, the Operators request that this Court reset the Lift Stay Motion to the earliest setting that the Court is available.

9. Emergency consideration of the Motion is requested as the Debtors have not provided the Operators fuel in over 10 days and will likely be unable to provide any fuel in the foreseeable future. Without any relief from this Court, the Operators will be forced to shutter their doors.

WHEREFORE, American 1 Gas, Inc., Broadway Fuel, Inc., Commack Fuel, Inc., Monto Food Mart, Inc., Prime Petro, Inc., and Riverdale Fuel, Inc. request that this Court reset the hearing on their Motion to Lift Stay to the earliest date that the Court is available and for all other equitable relief to which they may be entitled.

Houston, Texas  
Dated: August 15, 2023

/s/ Susan Tran Adams

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*Counsel for American 1 Gas, Inc., Broadway Fuel, Inc., Commack Fuel, Inc., Monto Food Mart, Inc., Prime Petro, Inc., and Riverdale Fuel, Inc.*

**Certificate of Service**

I certify that on August 15, 2023, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Susan Tran Adams

Susan Tran Adams

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

)  
) Chapter 11  
)

MOUNTAIN EXPRESS OIL COMPANY, *et al.*,<sup>1</sup>

Debtors.

) Case No. 23-90147 (DRJ)  
)  
) (Jointly Administered)  
) (Emergency Relief Requested)

**ORDER RESETTING HEARING**

Came on for consideration *Emergency Motion to Reset Hearing On Motion for Relief from Stay* filed by American 1 Gas, Inc., Broadway Fuel, Inc., Commack Fuel, Inc., Monto Food Mart, Inc., Prime Petro, Inc., and Riverdale Fuel, Inc (the “Operators” and the “Motion”). After considering the pleading, the Court finds cause to grant the requested relief. It is therefore,

**ORDERED:**

1. The Motion is granted.
2. The hearing on the Emergency Motion to Lift Automatic Stay [Docket No. 1238] is reset to \_\_\_\_: \_\_\_\_\_.m. (Prevailing Central Time) on \_\_\_\_\_, 2023.

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
DAVID R. JONES  
UNITED STATES BANKRUPTCY JUDGE

<sup>1</sup> A complete list of each of the Debtors in these Chapter 11 cases may be obtained on the website of the Debtors’ proposed claims and noticing agent at [www.kccllc.net/mountainexpressoil](http://www.kccllc.net/mountainexpressoil). The location of Debtor Mountain Express Oil Company’s principal place of business and the Debtors’ service address in these Chapter 11 cases is 3650 Mansell Road, Suite 250, Alpharetta, GA 30022.